

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 541 CUTTACK, FRIDAY, APRIL 10, 2015/CHAITRA 20, 1937

BHUBANESWAR DEVELOPMENT AUTHORITY

NOTIFICATION

The 6th April 2015

No. 9637—Misc.-AL-III-07/2015-BDA.—Whereas, the draft **Bhubaneswar Development Authority Land (Disposal and Allotment) Regulations, 2015** prepared under Section 124(2) (XIX) and (XX) of Orissa Development Authorities Act, 1982 (Act 14 of 1982) for disposal of property under Section 76 of the said Act, 1982 read with Rule 52 of Orissa Development Authorities Rules, 1983, which the Bhubaneswar Development Authority proposes to make with the previous approval of State Government for transparency in disposal and allotment of Land by the Authority ;

Whereas, the above said draft of the Regulations is required to be published under Section 125 of the Orissa Development Authorities Act, 1982 in the Gazette for inviting objections / suggestions from all persons likely to be affected thereby for consideration of the Authority ;

Now, therefore, in accordance with the provisions under sub-section (2) of Section 125 of the said Act, the draft **Bhubaneswar Development Authority Land (Disposal and Allotment) Regulations, 2015** is hereby published for information of all persons to file the written objections and suggestions to Secretary, BDA, in the Office of Bhubaneswar Development Authority, Akash Sova Building, Pandit Jawaharlal Nehru Marg, Bhubaneswar-751001 and notice is hereby given that the said draft will be taken into consideration on expiry of a period of 15 (Fifteen) days from the date of notification in the *Odisha Gazettee*.

Any objections/suggestions which may be received in writing from any person in respect of the said draft before the expiry of period so specified above will be considered by the Bhubaneswar Development Authority.

CHAPTER-I

GENERAL**Land Disposal and Allotment Regulations, 2015****1. Short Title, Application & Commencement—**

- (1) These regulations shall be called Bhubaneswar Development Authority Land Disposal and Allotment Regulations, 2015.
- (2) These shall extend to the whole area within the jurisdiction of the Bhubaneswar Development Authority.
- (3) These regulations shall come into force with immediate effect on the date of its publication in the *Odisha Gazette*.
- (4) BDA shall dispose of any land transferred to it by the State Govt. or accrued through TP scheme, land pooling or any other method with or without any development as it shall deem fit by way of auction/lottery/PPP mode.

2. Definition—In these regulations, unless there is anything inconsistent with the context or meaning—

- (1) “**Act**” means the Orissa Development Authorities Act, 1982;
- (2) “**Allotment**” means allotment of a particular property to an allottee by following the process as defined in these Regulations;
- (3) “**Allotment Letter**” means a letter in such form as may be prescribed by the Authority from time to time for making allotment of a particular property to an applicant under these regulations;
- (4) “**Allottee**” means a person(s) /firm/ institution/ organization/ company/ society etc., to whom a property has been allotted under these regulations;
- (5) “**Applicant**” means a person(s) /firm/ institution/ organization/ company/ society etc., who has/have submitted application for allotment of a property by putting his/her/their signature or thumb impression on an application form or by submitting the same Online;
- (6) “**Application**” means an application made in such form as may be prescribed by the Authority from time to time;
- (7) “**Application Register**” means a register in which applications in response to public notice are entered either manually or electronically, in the order in which they have been received;

- (8) “**Auction**” means a public sale conducted by Authority in which the rights on the property are transferred to the highest bidder in accordance with the terms and conditions laid down in the notice published for that particular scheme;
- (9) “**Authority**” means the Bhubaneswar Development Authority constituted under Section 3 of the ODAAct, 1982.
- (10) “**Bid Amount**” means the amount of money stated in the bid as the sum offered by the bidder for obtaining the rights on property as per the conditions of the Public Notice;
- (11) “**Bid Security**” or “**Earnest Money Deposit (EMD)**” means the initial amount as determined by the Authority payable by an applicant along with his application for securing a property which shall be non-interest bearing;
- (12) “**Commercial Plot**” means a plot of land meant for development for the purpose of commerce, trade or business or otherwise;
- (13) “**Deed**” means an agreement in the prescribed form between the Authority and the allottee by which rights over the property are transferred to the purchaser on the terms and conditions as specified in the said agreement;
- (14) “**Electronic Transfer**” or “**e-transfer**” means transfer of money from one account to another account through computer based RBI approved systems;
- (15) “**End Use**” means the ultimate use for which the property is allotted;
- (16) “**Family**” in case of a person means allottee’s husband/wife, unmarried children and dependent parents or grandparents or siblings. In case where the allottee has no family of his own, the family members will mean his legal heirs as defined in the Law of Succession applicable to him;
- (17) “**Ground Rent**” in relation to a plot of land means the annual payment to be made for use by allottee of the plot or part thereof to the Authority;
- (18) “**Licensee**” means a person who has entered into license agreement with Authority for use of a plot of land as per terms and conditions as prescribed in License Agreement;
- (19) “**License Agreement**” means an agreement, which defines terms and conditions of the authorization for use of a plot of land by a licensee on payment of fees and charges as prescribed thereunder;

- (20) **“Request for Proposal”** means bidding solicitation document published by Authority through which the interested bidders can participate in the development of land under PPP. The document outlines bidding process and contract terms and provides guidance on how the bid should be formatted and presented. It is typically open to a wide range of bidders, creating open competition between interested parties;
- (21) **“Development Agreement”** means an agreement between the authority and the successful bidder for development of land parcel under PPP detailing the terms and conditions of development proposed in the land parcel bid out through open competitive bidding in accordance with the bidding documents and PIM duly approved by the Authority;
- (22) **“PPP Branch”** means such division or group of officials designated by Authority for undertaking the purposes as defined in these regulations and under directions of Authority given from time to time;
- (23) **“Project Information Memorandum”** means such document as prepared by the Transaction Advisor of Authority containing details about the proposed project of development of land under PPP and includes matters as detailed in these regulations;
- (24) **“Public Institutions”** means any institution to which the public or any class or section of the public are granted access or any building of such institutions, which is open to public or any class or section of the public and includes any building –
- (a) used as a –
 - (i) school or college or an university or other educational institution,
 - (ii) hostel,
 - (iii) library,
 - (iv) hospital, nursing home, dispensary, clinic, maternity center or any other like institution,
 - (v) club,
 - (vi) lodging house, boarding house,
 - (vii) coffee house, hotel, restaurant.

(b) Used by the –

- (i) Central or any State Government or any local authority or body-corporate, owned or controlled by the Central or any State Government, or
- (ii) Public or any class or section of the public for religious worship or for religious congregation.

- (25) **“Public Private Partnerships”** means an arrangement between Authority on one side and a private entity on the other, for the development of land to achieve a specific end use, wherein investments are made by the private sector entity and where there is well defined allocation of risk between the private sector and the Authority and wherein Authority is entitled to receive payments for allotments of land made in accordance with terms and condition of the development agreement and lease deed conditions signed between Authority and the private entity;
- (26) **“Reserve Price”** means the price stipulated as the lowest acceptable by the Authority for the property being auctioned;
- (27) **“Land Disposal and Allotment Committee (LDAC)”** means a committee constituted under these regulations;
- (28) **“Transaction Advisor”** means such consultants and experts appointed by Authority for assisting Authority & LDAC in carrying out development of land under PPP model;
- (29) **“Vice-Chairman”** means the Vice-Chairman of Bhubaneswar Development Authority ;
- (30) Words and expressions used in these regulations but not defined shall have the same meaning as assigned to them in the Orissa Development Authorities Act, 1982 and rules made thereunder and Bhubaneswar Development Authority (Planning and Building Standards) Regulations, 2008, as amended from time to time.

3. Modes of Allotment—

- (1) The Authority shall allot land for various development purposes such as residential, commercial, public utilities, community facilities, parks, etc.

(2) The Authority shall make the allotment of land except the plotted development scheme in following modes, namely :—

- (a) Allotment through auction;
- (b) Development of Land through Public Private Partnerships;
- (c) Provisions for allotment of land to Public Institutions;
- (d) Provisions for Allotment of additional land.

(3) This shall be in accordance with the provisions of Chapter II, III, IV and V of these regulations.

4. Ownership of Land—

The ownership of land shall be with Authority before the same is considered for allotment or disposal under these regulations. The Authority should have record of rights of proposed land in its favour.

CHAPTER-II

Allotment of Land through Auction**5. Allotment by Auction—**

Subject to the Development Plans & Layout Plans, such land as the Authority may decide shall be allotted through auction in the manner provided in this Chapter.

6. Public Notice—

The Authority shall issue a public notice for auction of designated plots by giving a notice period of at least 30 days in advance. This notice shall be published in at least one English (national) dailies and two widely circulated Odia dailies. Details of the scheme shall be hoisted on the website of BDA which shall contain the following :—

- (a) details of plot location including location map;
- (b) Features of Scheme including price details;
- (c) Terms and conditions of allotment;
- (d) Details of EMD and payment schedule;
- (e) Schedule of auction, etc.

7. Eligibility for Allotment—**(1) For Residential Plots—**

- (a) Application for individual residential plots:

The Applicant should be citizen of India and should not be less than 18 years of age on the date of application. The same shall be allotted to such families, who is not or has not been owner of any free hold or lease hold dwelling unit/ plot of land in jurisdiction of the Bhubaneswar Development Authority;

- (b) Application for residential plots meant for group housing, apartments, etc.

The applicant shall be or a company or Partnership Firm or Proprietorship Firm or registered co-operative society having valid registrations as applicable and as decided by Authority from time to time.

(2) For Commercial Plots—

The same shall be allotted only to such applicant, who is a Company or Partnership Firm or Proprietorship Firm having a valid Trade License issued by concerned Urban Local Body, Sales Tax (VAT) Registration, Service Tax Registration, etc. as decided by the Authority from time to time.

8. Fixing of Reserve Price—

Reserve price for the land shall be fixed by Authority taking into consideration the prevailing benchmark value of the land, development charges, cost of boundary walls (wherever constructed) and other locational advantages including market demand.

9. Procedure for submission of Bids—

- (1) An applicant shall submit duly filled in application along with other required documents as per Public Notice issued.
- (2) The Authority shall reject the bids received below the Reserve Price fixed for the auction.
- (3) The bids will be received in the office of Bhubaneswar Development Authority on or before the scheduled last time and date of submission fixed in the Public Notice.

10. Terms & Conditions for allotment—

- (1) The allotment shall be on “As is where is basis”.
- (2) The plots shall not be used for any use other than the end use specified in the Public Notice.
- (3) The allottee shall be responsible for obtaining water supply and electricity connections from the concerned Departments at his / her own cost and also pay holding tax / ground rent to the concerned authorities.
- (4) The Authority may fix application charges for submission of bids by the applicants. This application charges shall be non-refundable in nature except, if specifically provided otherwise.
- (5) The allottee shall at their own cost, submit a written undertaking in non-judicial stamp paper in the format prescribed by BDA to abide by the terms and conditions of auction at the time of final payment.
- (6) The plots shall be allotted on lease basis for a period as specified in Public Notice.

- (7) On payment of all dues, the allottee shall execute and register the lease deed with BDA at his / her cost after observing all formalities.
- (8) Possession of the plot shall be handed over within 30 days of deposit of duplicate copy of the registered lease deed. In case allottee delays to take over the possession, the Authority shall recover monthly watch & ward charges as decided by Authority from the allottee.
- (9) The allottees shall develop the plot as per the end use specified, within a maximum period of five years from the date of taking over of physical possession.
- (10) The allottee shall be permitted to mortgage the plot for raising loan for construction of building purposes only as per the end use specified in Public Notice. This will be subject to such terms and conditions as given in the lease deed for this purpose.
- (11) In case of death of the allottee, mutation of the plot shall be allowed in favour of legal heirs on submission of necessary documents. The substituted lessee, so mutated, shall act as legal representatives of the allottees and accordingly all actions taken, consents given and approvals made by the allottee shall bind the successors of the allottee in all such respects.

11. Bid Security & Schedule of payments—

- (1) The bids shall be accompanied with bid security equivalent to 10% of the offset Price as Earnest Money Deposit (EMD).
- (2) The EMD shall be deposited in the form of a demand draft or pay order of any scheduled bank in favour of Bhubaneswar Development Authority payable at Bhubaneswar. The same may also be transferred electronically by e-transfer, if specified in the Public Notice.
- (3) The EMD shall be adjusted towards bid amount in case of successful bidder. In case of unsuccessful applicants, the EMD shall be refunded without any interest within 60 days by e-transfer in to the designated account of such applicants.
- (4) The balance 90% of the bid amount shall be paid as per the terms and conditions mentioned in the Public Notice. If the successful bidder fails to pay the balance amount as per the schedule, the EMD shall be forfeited and plot shall be put to fresh auction.

- (5) The Vice Chairman, BDA shall reserve the right to relax the conditions of payment schedule by providing extensions subject to a maximum of 6 months subject to condition of recovery of interest @ 18% per annum on balance amount for the extended period from the applicant.

12. Sale to Highest Bidder—

The officer conducting the auction shall normally accept, subject to confirmation by the Vice-Chairman, the highest bid offered at the auction. In case of more than one bidder quoting the same highest amount, the allotment shall be made through lottery amongst such bidders.

13. Rejection of Bid—

The officer conducting auction may, for reasons to be recorded in writing and with approval of Vice-Chairman reject any bid including the highest bid received.

14. Withdrawal of Bid—

No person whose bid has been accepted by the officer conducting the auction shall be entitled to withdraw his bid.

15. Determination of Lease—

In case of violation of any of the terms of lease deed read with the terms of allotment, the Authority is entitled to determine the lease deed and re-enter the property. The determination shall be done under the following circumstances:—

- (a) If the lessee violates any of the terms of the lease deed;
- (b) For non-payment of the dues such as ground rent, any other charges;
- (c) For unauthorized construction and encroachment of government land;
- (d) For misuse of the property;
- (e) For unauthorized sale of the property.

16. Cancellation—

The Authority shall reserve the right to cancel the Public Notice for auction due to unavoidable reasons. In such cases, the application fees and EMD amount shall be returned to applicants in full within 60 days of the cancellation notice through electronic transfer to the designated accounts of the applicants.

CHAPTER-III

Development of Land under Public Private Partnership (PPP)**17. Development under PPP—**

The Authority may undertake development of land under PPP mode through transparent competitive bidding process. The development under PPP mode shall be subject to the regulations as laid down in this Chapter.

18. Model Bidding Documents—

Authority shall prepare and adopt Model Request for Proposal, Model Development Agreement and Model Lease Deed for taking up development of land under PPP model.

19. Project Information Memorandum (PIM)—

The Land Development & Allotment Committee (LDAC) of BDA shall get the Project Information Memorandum (PIM) of the proposed project prepared with the help of Transaction Advisor. This shall include details such as:

(1) Project summary—

- (a) Name, Location & Land Area,
- (b) Project Development Components and Period,
- (c) Zoning and Development Controls,
- (d) Type and Duration of Property rights,
- (e) Bidding Parameters and Payment Schedules,
- (f) Eligibility Criteria & Bid Evaluation Parameters,
- (g) Major Conditions of Agreement as deemed appropriate.

(2) Schedule of bidding process

(3) Project Development and Bidding Process

(4) Site Plan

(5) Micro Market Real Estate Overview

20. Deviation from Model Bidding Documents to be part of PIM—

It is further provided that any deviation proposed from Model Request for Proposal, Model Development Agreement and Model Lease Deed conditions shall also form part of Project Information Memorandum.

21. Approval by Authority—

After due vetting and scrutiny, Project Information Memorandum shall be placed before the Authority for consideration and approval.

22. Approval of State Government—

In case lease conditions or conditions of notification under which Government land has been transferred to Authority, do not specifically allow development of land on PPP model then approval of State Government shall also be taken from the concerned Department.

23. Request for Proposal and Other Bidding Documents—

On basis of approved Project Information Memorandum (PIM) by Authority, Request for Proposal (RFP) and other bidding documents including Draft Development Agreement (DDA) will be prepared with the help of Transaction Advisor. These documents shall be published after due scrutiny, legal vetting and approval by the Land Development & Allotment Committee (LDAC).

24. Bid Process Management—

The Transaction Advisor appointed for a project will carry out entire Bid Process Management under the supervision of Land Development & Allotment Advisory Committee as constituted under these regulations. It is further provided that the financial bids in all cases shall be opened by LDAC in presence of independent observers.

25. Award of Contract & Signing of Agreement—

On basis of competitive bidding processed as per above, contract under PPP for development of land shall be awarded to the bidder quoting highest lease premium. In case of receipt of single bid or lack of response to RFP, the bids shall be cancelled and same may be put to competitive bidding again by LDAC.

26. Execution of Lease-deed—

Lease deed will be executed with the selected bidder as per the terms and conditions set out in the agreement and in the bid documents. The PPP Branch of BDA will monitor the project on regular basis to ensure full compliance by the selected bidder to conditions of the bid documents and agreements made thereunder.

27. Termination of Agreement and Consequences—

The Agreement shall provide for its termination and related consequences in accordance with the RFP conditions and the bidding documents.

28. Arbitration and Conciliation—

The Bidding Documents including agreement shall provide for Arbitration and Conciliation conditions in accordance with provisions of Arbitration and Conciliation Act, 1996 and amendment made to their rules from time to time.

CHAPTER-IV

Allotment of Additional Land**29. Introduction—**

The left out patches of land, which cannot be used otherwise or developed as independent residential or commercial plots, can be allotted to the land owner, who has a plot contiguous or adjacent to it.

30. Price of Allotment—

The additional land shall be allotted on payment of price, which is equivalent to double of the Bench Mark Value of the same land on the date of allotment of such land.

31. Committee's Recommendation—

The Land Development and Allotment Committee shall scrutinize and finalize the applications for allotment under these provisions.

32. Eligibility for Additional Land Allotment—

The following conditions shall be mandatory for allotment of additional land:—

- (1) There is no encroachment of public road, drain or land of Government or statutory body by the applicant;
- (2) Original Allotted land has been utilized for the purpose it was allotted;
- (3) Adequate justification exists for allotment of such extra/additional land.

CHAPTER-V

Allotment of Land to Public Institutions**33. Allotment of Land for Educational, Charitable and Public Purposes—**

The Authority on recommendation of LDAC may allot land for promotion of educational, medical, religious, social and charitable purposes to public institutions which are eligible as per regulation 31 below.

34. Eligibility of Public Institutions—

Allotment of land to public institution shall be made on fulfillment of following conditions:

- (1) Where according to the aims and objects of that public institution -
 - (a) it directly serves the interests of the people of the Bhubaneswar Development Area;
 - (b) it is generally conducive to the planned development of the Bhubaneswar Development Area;
 - (c) it is apparent from the nature of work to be carried out by that public institution, that the same cannot, with equal efficiency, be carried out elsewhere in that area.
- (2) It is a society registered under the Societies Registration Act, 1860 (21 of 1860) or such institution is owned and run by the Government or any Local Authority, or is constituted or established under any law for the time being in force or it is a company, firm or trust for the purpose of establishment of hospitals, dispensaries or higher / technical education institutes.
- (3) It is not a profit making organization.
- (4) It is in possession of sufficient funds to meet the cost of land and the construction of buildings for its use.
- (5) Allotment to such institution is sponsored or recommended by the respective Department of the Government of Odisha.

35. Premium for Lease—

The allotment shall be on payment of such lease premium as decided by Authority from time to time and the lease shall be subject to such conditions as may be approved by the Government.

36. Approval of Government :—

The allotment for these purposes shall be done only if the land is reserved for such purpose in the scheme, layout or master plan prepared and the approval of State Government on such allotment has been obtained.

CHAPTER-VI**Miscellaneous****37. Allotment of Land for Religious Purposes—**

No land shall be allotted for construction of any temple, church, synagogue mosque or for any other religious purpose nor shall permission be granted for change to user of the demised land for construction of any such building except with the previous sanction of Government.

38. Temporary Allotment of Land—

The Authority may, subject to these rules and in such cases as it deems fit, allot land for temporary periods on a license basis, in accordance with the terms and conditions of the license agreement as approved by the Authority. In addition, such license agreement may contain such other covenants, clauses or conditions, not inconsistent with the provisions of these regulations as may be considered advisable and necessary by the Authority, in the circumstances of a case.

39. Land Development & Allotment Committee—

A Land Development & Allotment Committee shall be constituted under Section 6 of the ODA Act, 1982 by the Authority for carrying out the purposes under these regulations and same shall comprise of following members :—

(a) Vice Chairman	..	Chairperson
(b) Collector, Khorda	..	Member
(c) Director, Estate	..	Member
(d) Planning Member, BDA	..	Member
(e) Finance Member, BDA	..	Member
(f) Engineering Member	..	Member
(g) Secretary, BDA	..	Member-Convener

40. Delegation of Power—

The Authority may delegate all or any of its powers under these regulations to Land Development & Allotment Committee (LDAC) or Vice-Chairman or any Member or any Officer of the Authority.

41. Direction of Government to be Supplementary to Regulations—

The directions given from time to time, by the Government shall be supplementary to but not in derogation of the provisions of these regulations.

42. Removal of Doubts—

If any doubt arises, relating to interpretation, scope or application of these rules, decision of Authority shall be final.

43. Conflict between Regulations and Provisions of Lease Deed—

In the event of there being any conflict between the provisions of these regulations and the provisions of the lease deed entered into by the Authority under the purview of these regulations, the provisions of these regulations shall prevail.

44. Power to relax Regulations—

In exceptional cases where Authority is satisfied that the operation of these regulations causes hardship in any particular case or where the Authority is of the opinion that it is necessary or expedient in public interest to do so, it may relax the provisions of these regulations with the approval of State Government.

45. Jurisdiction of Court—

The concerned Civil Court of Bhubaneswar shall have the jurisdiction over all matters of disputes/litigation, unless otherwise specified in the Regulation.

RANJAN KUMAR DAS

Secretary

Bhubaneswar Development Authority

Bhubaneswar.

CONTENTS

Sl. No.	Subject	Page No.
	CHAPTER-I	1—6
	General	
1	Short Title, Application and Commencement	
2	Definitions	
3	Modes of Allotment	
4	Ownership of Land	
	CHAPTER-II	7—10
	Allotment of Land through Auction	
5	Allotment by Auction	
6	Public Notice	
7	Eligibility for Allotment	
8	Fixing of Reserve Price	
9	Procedure for submission of Bids	
10	Terms & Conditions for allotment	
11	Bid Security & Schedule of payments	
12	Sale to Highest Bidder	
13	Rejection of Bid	
14	Withdrawal of Bid	
15	Determination of Lease	
16	Cancellation	
	CHAPTER-III	11—13
	Development of Land under Public Private Partnership (PPP)	
17	Development under PPP	
18	Model Bidding Documents	
19	Project Information Memorandum (PIM)	
20	Deviation from Model Bidding Documents to be part of PIM	
21	Approval by Authority	
22	Approval of State Government	
23	Request for Proposal and Other Bidding Documents	
24	Bid Process Management	
25	Award of Contract & Signing of Agreement	
26	Execution of Lease-deed	
27	Termination of Agreement and Consequences	
28	Arbitration and Conciliation	

Sl. No.	Subject	Page No.
	CHAPTER-IV	
	Allotment of Additional Land	14
29	Introduction	
30	Price of Allotment	
31	Committee's Recommendation	
32	Eligibility for Additional Land Allotment	
	Chapter-V	15—16
	Allotment of Land to Public Institutions	
33	Allotment of Land for Educational, Charitable and Public Purposes	
34	Eligibility of Public Institutions	
35	Premium for Lease	
36	Approval of Government	
	CHAPTER- VI	16—17
	Miscellaneous	
37	Allotment of Land for Religious Purposes	
38	Temporary Allotment of Land	
39	Land Development & Allotment Committee	
40	Delegation of Power	
41	Direction of Government to be Supplementary to Regulations	
42	Removal of Doubts	
43	Conflict between Regulations and Provisions of Lease Deed	
44	Power to relax Regulations	
45	Jurisdiction of Court	